

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE DIAL CORPORATION,
HENKEL CONSUMER GOODS INC.,
H. J. HEINZ COMPANY,
H. J. HEINZ COMPANY, L.P.,
FOSTER POULTRY FARMS,
SMITHFIELD FOODS, INC.
HP HOOD LLC, and
BEF FOODS, INC.,
Individually and On Behalf of
Similarly Situated Companies,

Plaintiffs,

v.

NEWS CORPORATION,
NEWS AMERICA INC.,
NEWS AMERICA MARKETING FSI L.L.C.,
and NEWS AMERICA MARKETING IN-
STORE SERVICES L.L.C.,

Defendants.

Civil Action No. 13-CV-06802-WHP

ECF Case

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS'
UNOPPOSED MOTION TO FILE LIMITED PORTIONS OF DEFENDANTS' MOTION
TO EXCLUDE EVIDENCE OF CLAIMS DISCHARGED BY RELEASES AND
CERTAIN EXHIBITS TO THE DECLARATION OF GEOFFREY R. CHEPIGA IN
SUPPORT OF DEFENDANTS' MOTION TO EXCLUDE EVIDENCE OF CLAIMS
DISCHARGED BY RELEASES UNDER SEAL**

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Pursuant to Paragraph 36 of the Stipulation and Protective Order entered on November 19, 2013 (Doc. 82), as amended by the Stipulation and Supplemental Protective Order entered on January 27, 2014 (Doc. 87) and the Second Supplemental Protective Order entered on October 7, 2014 (Doc. 155) (collectively, the “Protective Order”), as well as Section V(A) of this Court’s Individual Practices, Defendants respectfully request that the Court enter an order granting leave to file their Motion to Exclude Evidence of Claims Discharged by Releases with limited redactions and to file Exhibits 1-7 to the Declaration of Geoffrey R. Chepiga in Support of Defendants’ Motion to Exclude Evidence of Claims Discharged by Releases under seal.

ARGUMENT

District courts have discretion to seal records under their “inherent ‘equitable powers . . . over their own process, to prevent abuses, oppressions and injustices.’” *Int’l Prods. Corp. v. Koons*, 325 F.2d 403, 407–08 (2d Cir. 1963) (quoting *Gumbel v. Pitkin*, 124 U.S. 131, 144 (1888)); *see also Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (“[e]very court has supervisory power over its own records and files”). Here, to protect confidential and potentially competitively sensitive information, good cause exists for the relief requested.

On January 21, 2016, Defendants filed their Motion to Exclude Evidence of Claims Discharged by Releases as well as the Declaration of Geoffrey R. Chepiga in support of their Motion to Exclude Evidence of Claims Discharged by Releases (the “Chepiga Declaration”). Portions of Defendants’ Motion to Exclude Evidence of Claims Discharged by Releases, as well as Exhibits 1-7 of the Chepiga Declaration, refer to confidential agreements between NAM and certain CPGs that NAM agreed to keep confidential and that have been designated Highly Confidential or Attorneys’ Eyes Only by the parties. Disclosure of this information could potentially harm NAM’s business. *See* Defendants’ Motion to Redact a Portion of the December

3, 2015 Transcript (Docs. 409-411). This Court has previously granted permission to redact such information. *See, e.g.*, Order to Redact a Portion of the December 3, 2015 Transcript (Doc. 414).

Accordingly, pursuant to Paragraph 36 of the Protective Order and Section V(A) of this Court's Individual Practices, Defendants respectfully request that the Court allow Exhibits 1-7 of the Chepiga Declaration, as well as limited portions of Defendants' Motion to Exclude Evidence of Claims Discharged by Releases, to be filed under seal.

Defendants have conferred with Plaintiffs, who do not oppose this motion.

CONCLUSION

Defendants respectfully request that the Court grant Defendants' unopposed motion.

Dated: January 21, 2016

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON &
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